

REMARKS

The amendments submitted above were previously submitted in the Proposed Amendment submitted on August 12, 2005, and are resubmitted herein to ensure they are entered into the official record. Applicants previously submitted the proposed amendment at the request of the Examiner per a telephonic interview conducted on August 5, 2005.

Claims 43-51, 58-65, 67, and 68 are pending in the instant application. Applicants respectfully request reconsideration of this application in view of the following remarks.

Double Patenting

Claims 43, 58, and 65 stand rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-16 of U.S. Patent No.: 6,658,031 to Tuganov et al. The Applicants respectfully request that the enclosed timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) be entered to overcome the instant nonstatutory double patenting rejections as suggested in the Office Action mailed April 15, 2003.

The Applicants wish to note that the filing of the enclosed Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) is not an admission to the propriety of the rejection. M.P.E.P. § 804.02 (8th Ed. February 2003); Quad Environmental Technologies Corp. v. Union Sanitary District, 20 USPQ2d 1392 (Fed. Cir. 1991). As stated by the Federal Circuit in the Quad Environmental Technologies decision, the “filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection.”

CHARGE DEPOSIT ACCOUNT

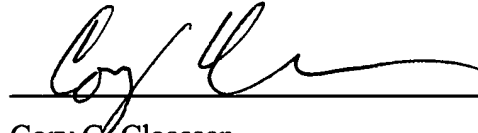
It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). Any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666. Please credit any overpayment to the same deposit account.

Respectfully submitted,

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Date: _____

Sept. 19, 2005



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